

# Notice of Allowability

Application No.

09/187,661

Examiner

Chih-Min Kam

Applicant(s)

SHIRLEY ET AL.

Art Unit

1653

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/12/05.
2. ☒ The allowed claim(s) is/are 1,3,4,13,16-20 and 28-50.
3. ☒ The drawings filed on 01 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20050419.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other TD approved

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An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

**Examiner's Amendments to the Specification:**

Please replace the paragraph in the specification beginning at page 1, line 3 after "CROSS-REFERENCE TO RELATED APPLICATIONS" with the following paragraph:

This application claims benefit of U.S. Provisional Application No. 60/064,891, filed November 7, 1997, and claims benefit of U.S. Provisional Application No. 60/096,081, filed August 11, 1998.

The following is an **Examiner's Statement of Reasons for Allowance**: The following references appear to be the closest art to the claimed invention. Shirley *et al.* (U.S. 6,767,892) teach a composition having a pH of 5.5 or greater, comprising IGF-I or a biologically active analog thereof having at least 70% sequence identity to human IGF-I at a concentration of about 12 mg/ml to about 200 mg/ml, and at a temperature of about 4 °C, and a solubilizing compound comprising a guanidinium group, wherein the solubilizing compound is in an amount sufficient to make IGF-I or analog thereof soluble; and Shirley *et al.* (U.S. 6,573,238) teach a method of making microparticle comprising the step of providing a low salt-containing aqueous composition comprising biologically active human IGF-I or a biologically active analog thereof in a concentration of 250-500 mg/ml and a pH about 5.5 or greater, wherein the analog has at least 80% sequence identity to human IGF-I, and the microparticle is made at 2-8 °C. These two patents and the instant application have common inventors, and terminal disclaimers have been filed. Therefore, the claims are allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

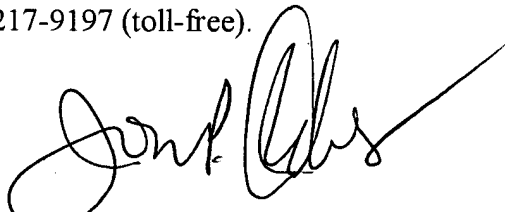
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Min Kam, Ph. D.

Patent Examiner

CMK

A handwritten signature in black ink, appearing to read "Jon Weber", with a long horizontal stroke extending to the right.

**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**

CMK

April 19, 2005